



**MCI Telecommunications  
Corporation**

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Leonard S. Sawicki  
Director  
FCC Affairs

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March 15, 1996

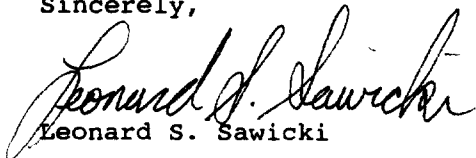
Mr. William F. Caton  
Secretary  
Federal Communications Commission  
Room 222  
1919 M Street NW  
Washington, D.C. 20554

Re: CC Docket 95-116: Local Number Portability

Dear Mr. Caton:

Please include the attached letter in the record of this proceeding.

Sincerely,

  
Leonard S. Sawicki

Attachment

cc: Mr. Harthun, Common Carrier Bureau

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March 29, 1996

Mr. Matthew Harthun  
Common Carrier Bureau  
Federal Communications Commission  
1919 M Street NW  
Washington, D.C. 20554

Re: CC Docket No. 95-116; Number Portability

Dear Mr. Harthun,

At a recent meeting, you asked what authority the FCC has to order interim number portability for non-RBOC local exchange carriers. The attached analysis addresses that question.

Per Section 1.1200 of the FCC's Rules, I am filing copies of this letter with the Secretary to be included in the official record of this proceeding.

Sincerely,

Leonard S. Sawicki

Attachment



**THE FCC'S AUTHORITY TO ISSUE REGULATIONS  
CONCERNING INTERIM LOCAL NUMBER PORTABILITY**

The Federal Communications Commission ("FCC" or "Commission") has authority to issue regulations concerning the type, price, and quality of interim local number portability ("LNP") arrangements until full LNP arrangements are determined by the Commission to be technically feasible.

Section 251(b)(2) of the Telecommunications Act of 1996, 47 U.S.C. § 251(b)(2), requires all local exchange carriers ("LECs"), not just incumbent LECs, "to provide, to the extent technically feasible, number portability in accordance with requirements prescribed by the Commission." Section 153(47) defines "number portability" to mean "the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another." Section 271(c)(2)(B)(xi) recognizes that interim arrangements may be necessary to provide LNP "with as little impairment of functioning, quality, reliability, and convenience as possible" until "full compliance" with the Commission's regulations is achieved.

The Commission's express authority to require true LNP as soon as technically feasible includes the authority to require transitional forms of LNP until true LNP can be provided. The reference to "full compliance" in § 271(c)(2)(B)(xi) suggests that interim compliance with the Commission's LNP regulations may mean the provision of in-

terim LNP arrangements. It would be anomalous for Congress to empower the Commission to require a permanent solution, while withholding the authority to order interim approaches that provide a reasonable transition to the permanent solution.

The authority to provide for interim LNP arrangements is included in § 4(i) of the Communications Act, 47 U.S.C. § 154(i), the "necessary and proper clause" of the Act. Section 4(i) authorizes the Commission to "perform any and all acts, . . . and issue such orders, not inconsistent with [the Communications Act], as may be necessary in the execution of its functions." See *New England Tel. & Tel. v. FCC*, 826 F.2d 1101, 1108 (D.C. Cir. 1987) (citation omitted). The Court of Appeals recently interpreted the scope of this authority reasonably broadly. *Mobile Communications Corp. of America v. FCC*, 1996 WL 99415 (D.C. Cir. Mar. 8, 1996) ("*Mtel*"). Given the Commission's plenary authority to require implementation of LNP as soon as technically feasible, and the urgent need to implement LNP on an interim basis to facilitate the development of local competition until true LNP can feasibly be deployed, it is "necessary in the execution of the Commission's functions" to specify the terms and conditions on which interim LNP must be provided.

Furthermore, the Commission indicated that its jurisdiction before enactment of the Telecommunications Act of 1996 included the authority to promulgate regulations concerning LNP, including both interim and long-term arrangements. See

Notice of Proposed Rulemaking, FCC Docket No. 95-116, 60 Fed. Reg. 39136 (Aug. 1, 1995). If the FCC has this authority before § 251(b)(2) was enacted, surely it has this authority now that its responsibilities to facilitate local competition, including through LNP arrangements, has been expressly codified.